

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

LIBERTY MUTUAL INSURANCE COMPANY,

Plaintiff,

v.

THE BLACK & DECKER CORPORATION,  
BLACK & DECKER, INC., BLACK & DECKER  
(U.S.) INC., EMHART CORPORATION, and  
EMHART, INC.,

Defendants.

C.A. No. 96-10804-DPW  
Case Numbers:  
1:04-CV-10678-DPW  
(Shaffer Landfill Site)

**ASSENTED-TO MOTION OF LIBERTY MUTUAL INSURANCE  
COMPANY TO FILE UNDER SEAL ITS STATEMENT OF MATERIAL  
FACTS, ITS AFFIDAVIT AND ITS MEMORANDUM ALL IN  
OPPOSITION TO BLACK & DECKER'S SUPPLEMENTAL MOTION  
FOR PARTIAL SUMMARY JUDGMENT WITH RESPECT  
TO THE SHAFFER LANDFILL SITE**

Pursuant to Local Rule 7.2, plaintiff, Liberty Mutual Insurance Company ("Liberty Mutual"), hereby moves for leave to file under seal its Statement of Material Facts, its Affidavit, and its Memorandum, all in Opposition to Black & Decker's Supplemental Motion for Partial Summary Judgment with Respect to the Shaffer Landfill site, because said documents contain references to other documents which were produced by defendants, The Black & Decker Corporation, et al. ("Black

& Decker"), on a confidential basis pursuant to the Confidentiality Order in this lawsuit.

As grounds for this Motion, Liberty Mutual states as follows:

1. In its Statement, Affidavit and Memorandum, Liberty Mutual makes reference to, and appends copies as exhibits of certain documents which were produced on a confidential basis by Black & Decker pursuant to the Confidentiality Order in this case. The parties have agreed to maintain the confidentiality of such documents in any filings with the Court.

2. Accordingly, Liberty Mutual files this Motion to protect the allegedly confidential nature of the Black & Decker documents which, otherwise, would be available for inspection and copying by the general public.

3. Liberty Mutual files this Motion in good faith, and not for the purpose of delay. Black & Decker will not be prejudiced in any manner by Liberty Mutual's request, which is intended to protect Black & Decker's asserted confidentiality interests.

4. Accordingly, pursuant to Local Rule 7.2, Liberty Mutual requests that the Court enter an Order authorizing the sealing of its Statement, Affidavit and Memorandum, all in Opposition to Black & Decker's Supplemental Motion for Partial Summary Judgment with Respect to the Shaffer Landfill site.

5. Liberty Mutual requests that the Court maintain the Statement, Affidavit and Memorandum under seal until this action is closed. At that time,

Liberty Mutual requests that the Statement, Affidavit and Memorandum be returned to the undersigned counsel.

6. Black & Decker assents to this Motion to file the Statement, Affidavit and Memorandum under seal.

WHEREFORE, Liberty Mutual Insurance Company respectfully requests that the Court grant this motion and require that the Statement, Affidavit and Memorandum, all in Opposition to Black & Decker's Supplemental Motion for Partial Summary Judgment be kept under seal, and for such other and further relief as this Court deems just and proper.

**LIBERTY MUTUAL  
INSURANCE COMPANY**

By its attorneys,

/s/ Janice Kelley Rowan  
Ralph T. Lepore, III (BBO #294420)  
Janice Kelley Rowan (BBO #265520)  
HOLLAND & KNIGHT LLP  
10 St. James Avenue  
Boston, MA 02116  
(617) 523-2700

Dated: November 24, 2004

**LOCAL RULE 7.1 CERTIFICATION**

I hereby certify that pursuant to Local Rule 7.1, I spoke with Richard L. Binder, counsel for Black & Decker, on November 24, 2004, and he agreed that this motion could be filed with the assent of the defendants.

/s/ Janice Kelley Rowan

**CERTIFICATE OF SERVICE**

I hereby certify that on this 24<sup>th</sup> day of November, 2004, I caused a copy of the foregoing Assented to Motion to be served by hand upon Jack R. Pirozzolo, Esq., counsel to defendants, at Willcox, Pirozzolo & McCarthy, P.C., 50 Federal Street, Boston, MA 02110.

/s/ Janice Kelley Rowan

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